

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2229

DARON K. OWENS,

Plaintiff - Appellant,

versus

PAUL HENRY O'NEILL,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (CA-02-1306-A)

Submitted: April 30, 2004

Decided: May 24, 2004

Before NIEMEYER and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Daron K. Owens, Appellant Pro Se. Rachel Celia Ballow, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Daron K. Owens appeals the district court's order granting judgment for the Defendant following a bench trial on July 22, 2003. The record does not contain a transcript of the evidence presented at trial that day. An appellant has the burden of including in the record on appeal a transcript of all parts of the proceedings material to the issues raised on appeal. See Fed. R. App. P. 10(b); 4th Cir. R. 10(c). An appellant proceeding on appeal in forma pauperis is entitled to transcripts at government expense only in certain circumstances. 28 U.S.C. § 753(f) (2000). By failing to produce a transcript or to qualify for the production of a transcript at government expense, Owens has waived review of the issues on appeal that depend upon the transcript to show error. See Powell v. Estelle, 959 F.2d 22, 26 (5th Cir. 1992); Keller v. Prince George's County, 827 F.2d 952, 954 n.1 (4th Cir. 1987). As no error appears on the record before us, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED